

Date of Hearing: May 6, 2020

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 1859 (Santiago) – As Amended February 14, 2020

SUBJECT: School district employees: merit system: appointments

SUMMARY: Extends, from December 31, 2020 to January 1, 2027, exemptions from the requirement that a merit system school district fill classified employee vacancies with applicants from the first three ranks on an eligibility list. Specifically, **this bill:**

- 1) Extends, until January 1, 2027, authorization for a school district with a student population of over 400,000 to fill a classified vacancy with an applicant who is not among the first three ranks of an eligibility list if the position requires a person of a specific gender or requires specialized licenses, certifications, knowledge, or ability which cannot reasonably be acquired during the probationary period.

EXISTING LAW:

- 1) Authorizes an appointment to be made from other than the first three ranks of eligible applicants on an eligibility list if one or more of the following are required for successful job performance of a position to be filled:
 - a) The ability to speak, read, or write a language in addition to English;
 - b) A valid driver's license;
 - c) Specialized licenses, certifications, knowledge, or ability, as determined by the school district personnel commission, that cannot reasonably be acquired during the probationary period;
 - d) A specific gender, if it is a bona fide occupational qualification.
- 2) Requires that the recruitment bulletin announcing the examination indicate the special requirements that may be necessary for filling one or more of the positions in the classification.
- 3) Requires that, if a position is to be filled using this authority, the appointment be made from among the highest three ranks of eligible candidates on the appropriate eligibility list who meet the special requirements of the position and who are ready and willing to accept the position.
- 4) Requires that, if there are insufficient applicants who meet the special requirements, an employee who meets the special requirements may receive provisional appointments that may accumulate to a total of 90 working days. This provision applies only to the following classifications:
 - a) Principal financial analyst;

- b) Principal administrative analyst;
 - c) Senior administrative analyst;
 - d) Senior administrative assistant;
 - e) Senior financial analyst;
 - f) Information technology electronic communications technician;
 - g) Senior human resource specialist;
 - h) Any classifications that have been designated as management or confidential.
- 5) Requires that a school district that makes an appointment pursuant to this authority study the effectiveness of the selection method, the vacancy rates for each class, and the length of time to hire for each class, and submit a report on its findings to any affected labor union.
- 6) Sunsets these provisions on December 31, 2020.

FISCAL EFFECT: This bill has been keyed non-fiscal by the Office of Legislative Counsel.

COMMENTS:

Need for the bill. According to the author, “In a school district that serves over 600,000 students, it is important that the Los Angeles Unified School District (LAUSD) has flexibility in the hiring process to quickly fill vacant positions with qualified candidates. Our students deserve to have the most experienced administrators serving them.”

Exemption from the “Rule of Three Ranks.” The rationale for the exemptions extended by this bill, as described in an analysis of AB 424 (Richman), Chapter 881, Statutes of 2003, was that these provisions would “provide efficiencies, economies and flexibility in the examination and selection process for classified employees of the Los Angeles Unified School District.” The sponsor of that bill stated that the “Rule of Three Ranks” takes between one and four months to fill a vacancy, and that “at any given time, there are tens of vacancies in any given classification. If one school must select from the top three ranks before the next school can select, inordinate delays are created in the hiring of qualified employees.” The sponsor estimated that an exemption would reduce hiring time to two to three weeks.

Merit systems. Current law establishes a system of classified personnel management, known as the merit system, which has been adopted by nearly 100 school districts in California, including LAUSD, which adopted the merit system in 1936.

In a merit system district, a personnel commission establishes guidelines that the district governing board must follow in the hiring, retention, and promotion of classified employees. The commission is comprised of one commissioner selected by the exclusive representative of the classified employees, one commissioner selected by the school district, and a third commissioner selected by the other two.

Vacancies in the classified service are filled from applicants on eligibility lists, except for vacancies filled by transfer, demotion, reinstatement, and reemployment in accordance with rules of the commission. An applicant's place on an eligibility list is determined by his or her performance on a competitive examination. All eligible applicants with the same score are considered as having the same rank, and positions generally are filled by applicants from the first three ranks on an eligibility list. Appointments may be made from other than the first three ranks when the ability to speak, read, or write a language in addition to English, possession of a valid driver's license, specialized licenses or ability, or gender is a requirement of the position.

Arguments in support. The LAUSD writes, “The Los Angeles Unified School District has approximately 1,200 job classifications. Through the current statute that is set to sunset on December 31, 2020, the biggest advantage we have noted is the flexibility that we have in meeting specific hiring needs at any given time, without the need to conduct separate recruitment campaigns for each unique need. The ability to hire based on specific certified skills allows us to recruit once for a specific job classification, yet target candidates with unique knowledge or skill set specific to the different positions within that job class. In turn, our hiring departments are able to hire candidates who best match their needs, without additional recruitment efforts. From the time that Education Code 45277 was extended to allow that ‘an appointment may be made from other than the first three ranks if a candidate possesses special licenses, certifications, knowledge, or abilities,’ Los Angeles Unified’s Personnel Commission has seen a decrease in the time it takes to fill a position by over 60 percent. We attribute a significant part of this decrease to the fact that hiring managers may fill positions off of an initial eligibility list, rather than request that additional recruitment efforts be undertaken. For these reasons, the Los Angeles Unified School District is pleased to support Assembly Bill 1859.”

Previous legislation. AB 1339 (Santiago), Chapter 243, Statutes of 2015, extended the exemption from the requirement to appoint from the first three ranks, until December 31, 2020, and struck “information technology solution technician” from the list of positions subject to this exemption.

AB 2125 (Hall), Chapter 56, Statutes of 2012, extended the exemption from the requirement to appoint from the first three ranks to, December 31, 2015, and reduced the application to nine positions.

AB 1293 (Hall), Chapter 145, Statutes of 2009, added nine additional positions to which the exemption from the requirement to appoint from the first three ranks may apply.

AB 415 (Karnette), Chapter 186, Statutes of 2008, added "any classifications that have been designated as management" to the positions exempted from the requirement to appoint from the first three ranks.

AB 580 (Smyth), Chapter 528, Statutes of 2007, extended the exemption from the requirement to appoint from the first three ranks to January 1, 2012, and limited its application to 16 specified positions.

AB 1772 (Assembly Public Employees, Retirement and Social Security Committee), Chapter 547, Statutes of 2005, extended the exemption from the requirement to appoint from the first three ranks to January 1, 2007.

AB 424 (Richman), Chapter 881, Statutes of 2003, created the exemption from the requirement to appoint from the first three ranks. That bill did not restrict the exemption to specified positions.

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles Unified School District (sponsor)

Opposition

None on file

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